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May 16, 2024

BY ECF

Honorable Denise L. Cote
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

Re: *Elijah Davis v. City of New York, et al.*,
23-CV-00018 (DLC)

Your Honor:

I am an attorney in the office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, assigned to the defense of the above-referenced matter. For the reasons discussed herein, the undersigned respectfully requests that Your Honor, *sua sponte*, grant an extension of time for the individually named defendants, David Pabon, Jason Vasquez, David Demelia, Mark O'Connell, to answer or otherwise respond to the Complaint until June 16, 2024. This is the second request and counsel for plaintiff consents to this request.

By way of background, plaintiff filed the Complaint in this action on January 4, 2023 alleging, inter alia, that, on January 23, 2020, he was falsely arrested, improperly searched, and subject to a sexual assault by Sgt. David Pabon. See Civil Docket Sheet, Entry No. 3. Plaintiff further alleges that, on November 18, 2020 he was subject to retaliatory arrest and thereafter maliciously prosecuted. *Id.* On March 22, 2024 the parties attended an initial conference. See Civil Docket Entry No. 21.

Despite the undersigned's efforts, additional time is needed to resolve representation with defendants David Pabon, Jason Vasquez, David Demelia, and Mark O'Connell pursuant to the General Municipal Law. *See* General Municipal Law § 50(k); *Mercurio v. City of New York, et al.*, 758 F.2d 862, 864-65 (2d Cir. 1985); *Williams v. City of New York, et al.*, 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law). Upon information and belief, at least one of the individually named defendants is retired from the NYPD and contacting him has been difficult.

For the reasons set forth above, defendant respectfully requests, with plaintiff's consent, that Your Honor, *sua sponte*, grant an extension on time for the individually named defendants to

answer or otherwise respond to the Complaint until June 16, 2024. Defendant thanks the Court for its time and attention to this matter.

Respectfully submitted,

KellyAnne Holohan /s/

KellyAnne Holohan
Assistant Corporation Counsel
Special Federal Litigation Division

cc: **BY ECF**
All Counsel of Record

Granted.

Annex Ghe
5/17/24